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Date:
May 11, 2007

LEGEND:

Distributing =

HoldCo =

Controlled =

Sponsor =

C-Sub1 =

C-Sub2 =

C-Sub3 =

C-Sub4 =

D-Sub1 =

D-Sub2 =

D-Sub3 =

Business A =

Business B-1 =

Business B-2 =

Business C =

a =

b =

c =

d =

e =

f =

g =

h =

i =

i =

k =

Date A =

Date B =

Date C =

Date D =

State X =

State Y =

Dear :

This letter responds to your January 31, 2007 request for rulings on certain federal income tax consequences of the Proposed Transaction (described below). The information submitted in that request and in later correspondence is summarized below.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by penalty of perjury statements executed by an appropriate party. This office has not verified any of the materials submitted in support of the request for rulings. Verification of the information and representations may be required as part of the audit process.

Moreover, no information provided by the taxpayer has been reviewed and no determination has been made regarding whether the Distribution (described below): (i) satisfies the business purpose requirement of Treas. Reg. § 1.355-2(b); (ii) is used principally as a device for the distribution of the earnings and profits of Distributing or Controlled or both (see section 355(a)(1)(B) of the Internal Revenue Code and Treas. Reg. § 1.355-2(d)); or (iii) is part of a plan (or series of related transactions) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest in Distributing or Controlled (see section 355(e)(2)(A)(ii) and Treas. Reg. § 1.355-7).

FACTS

Distributing is the common parent of an affiliated group of corporations filing a consolidated federal income tax return (the "Distributing Group"). The majority of the stock of Distributing is owned by various funds managed by Sponsor. Distributing,

through its subsidiaries, engages in Business A, Business B-1, Business B-2, and Business C.

Distributing is a holding company that owns all of the outstanding stock of HoldCo. HoldCo is a holding company that owns all of the outstanding stock of several subsidiaries including C-Sub1, C-Sub2, D-Sub1, and D-Sub2. C-Sub1 owns all of the outstanding stock of C-Sub3 and C-Sub4. D-Sub2 is a holding company that owns all of the outstanding stock of D-Sub3.

Distributing has outstanding approximately \$a of junior debt to unrelated lenders (the “Junior Debt”). HoldCo has outstanding approximately \$b of senior debt to unrelated lenders (the “Senior Debt”) and approximately \$c of publicly traded senior subordinated notes (the “Notes”). None of Distributing’s or HoldCo’s borrowings were incurred in anticipation of the Proposed Transaction.

C-Sub1 is a party to certain contracts in, and is the obligor on various liabilities of, Business B-1. C-Sub2 has employees associated with Business B-1. C-Sub3 and C-Sub4 are directly engaged in Business B-1.

D-Sub1 is engaged in Business A, directly and through its subsidiaries.

D-Sub3 is engaged in Business B-2. On Date A, the Distributing Group disposed of a majority of the units engaged in Business B-2 and Business C.

The taxpayer has submitted financial information indicating that Business B-1 (as conducted by C-Sub3) and Business A (as conducted by D-Sub1) each has had gross receipts and operating expenses representing the active conduct of a trade or business for each of the past five years.

Distributing’s management has determined that the separation of Business B-1 from Business A, Business B-2, and Business C will serve a number of corporate business purposes as described below.

PROPOSED TRANSACTIONS

Through the following transactions (collectively, the “Proposed Transaction”), Distributing proposes to separate Business B-1 from Business A, Business B-2, and Business C.

- (i) HoldCo will form Controlled to facilitate the business objectives to be achieved by separating Business B-1 from Businesses A, B-2, and C in an efficient and cost effective manner.

- (ii) Intercompany accounts between (i) any Distributing Group member that will be owned, directly or indirectly, by Controlled after the Proposed Transaction, and (ii) Distributing, HoldCo, or any Distributing Group member that will be owned, directly or indirectly, by Distributing after the Proposed Transaction will be settled. A series of transactions will occur that will culminate in C-Sub1's distributing to HoldCo applicable intercompany receivables and HoldCo's assuming applicable intercompany payables.
- (iii) HoldCo will merge with and into Distributing, with Distributing surviving (the "HoldCo Merger"). In the HoldCo Merger, Distributing will succeed to HoldCo's assets and liabilities (including the Senior Debt and the Notes) and intercompany notes between Distributing and HoldCo will be cancelled by operation of law.
- (iv) Distributing will borrow approximately \$d from third parties, a portion of which will be on a senior basis, and a portion of which will be subordinated.
- (v) Controlled will borrow approximately \$e from third parties on a senior basis.
- (vi) Distributing will transfer the stock of C-Sub1 and C-Sub2 to Controlled in exchange for additional Controlled stock, senior subordinated Controlled debt securities (the "Controlled Securities") with a principal amount of approximately \$f, and cash of approximately \$g (an amount not in excess of Distributing's basis in its C-Sub1 stock and C-Sub2 stock) (the "Contribution").
- (vii) Distributing will repay or satisfy all or a portion of its Senior Debt using all or a portion of the cash received from Controlled in Step (vi). Distributing will use the remaining portion of such cash, if any, to repay a portion of its Junior Debt (and/or to repay a portion of the Notes in Step (x) below). Distributing also will use a portion of its cash on hand and cash borrowed in Step (iv) to repay or satisfy any remaining amount of Distributing's Senior Debt, its pre-existing Junior Debt, and certain additional liabilities (including transaction expenses).
- (viii) Distributing will distribute cash of approximately \$h pro rata to its shareholders with respect to their Distributing stock (the "Cash Distribution").
- (ix) Distributing will distribute all of the Controlled stock pro rata to its shareholders with respect to their Distributing stock (the "Distribution").
- (x) Distributing will exchange all of the Controlled Securities received in Step (vi) and a portion of the cash that it borrowed in Step (iv) (and/or cash received from Controlled in Step (vi)) for the Notes (the "Debt Exchange").

The Debt Exchange is intended to be conducted as a direct exchange between Distributing and the holders of the Distributing Notes. However, it may be necessary or

appropriate to accomplish the Debt Exchange through intermediation by a financial institution (the “Financial Institution”). In such case, the aggregate value of the Notes delivered by Financial Institution and of the Controlled Securities delivered by Distributing will be determined on a date (the “Valuation Date”) specified in an exchange agreement (the “Exchange Agreement”). The Exchange Agreement will be entered into no sooner than i days after Financial Institution acquires the Distributing Notes in the marketplace and at least j days prior to the Valuation Date.

Under the terms of the Exchange Agreement, Financial Institution will represent that: (i) the debt delivered to Distributing in the Debt Exchange was acquired by Financial Institution for its own account; (ii) no such debt was acquired by Financial Institution within k days of the Valuation Date; (iii) to the knowledge of Financial Institution, without independent inquiry, all such debt was acquired by Financial Institution from third parties (“sellers”) (and, other than as a dealer prior to sales to third parties), not from Distributing or any affiliate of Distributing; and (iv) at or prior to the time of the original issuance of such debt, there was no arrangement or understanding between Financial Institution and any seller that acquired such debt in connection with its original issuance (from Financial Institution as dealer or otherwise) that the seller would sell the debt to Financial Institution. Under the terms of the Exchange Agreement, Distributing will represent that neither it nor any of its affiliates sold any debt delivered to Distributing in the Debt Exchange to Financial Institution (other than as a dealer). Financial Institution will sell to third parties pursuant to a public or private offering any Controlled Securities received from Distributing.

In conjunction with the transactions described above, Distributing and Controlled will enter into agreements relating to the separation of the businesses and certain continuing transactions between the companies, including transitional administrative and other service agreements for a period not to exceed two years, a tax sharing agreement, and possibly, a consulting agreement (collectively, the “Transition Agreements”).

Distributing has outstanding certain compensatory stock options, restricted shares of stock, and deferred share arrangements (collectively, the “Equity-Based Interests”) on Distributing stock. It is anticipated that the terms of the outstanding Equity-Based Interests may be adjusted and that some or all of the Equity-Based Interests on Distributing stock will be converted into outstanding Distributing stock prior to the Distribution or converted into Equity-Based Interests on Controlled stock in connection with the Distribution (the “Modifications”).

REPRESENTATIONS

The HoldCo Merger:

The following representations are made with respect to the HoldCo Merger:

- (a) Distributing and HoldCo will adopt a plan of liquidation by merger (the “Plan of Merger”), and the HoldCo Merger will occur pursuant to such plan.
- (b) Distributing, on the date of adoption of the Plan of Merger, and at all times until the effective date of the Merger, will be the owner of at least 80 percent of the total combined voting power of all classes of HoldCo stock entitled to vote and the owner of at least 80 percent of the total value of all classes of HoldCo stock (excluding nonvoting stock, if any, that is limited and preferred as to dividends and otherwise meets the requirements of section 1504(a)(4)).
- (c) No shares of HoldCo stock will have been redeemed during the three years preceding the adoption of the Plan of Merger of HoldCo.
- (d) By operation of law, all transfers from HoldCo to Distributing pursuant to the Plan of Merger will occur on the effective date of the Merger.
- (e) All of the stock of HoldCo will be redeemed and cancelled, and HoldCo will cease to exist for federal income tax purposes at the effective time of the Merger.
- (f) HoldCo will retain no assets following the Merger.
- (g) Other than HoldCo’s acquisition of the stock of C-Sub1 on Date B when it formed C-Sub1 and the formation of other subsidiaries in the ordinary course, HoldCo will not have acquired assets in any nontaxable transaction at any time, except for acquisitions occurring more than three years prior to the date of adoption of the Plan of Merger.
- (h) Except as described above in Step (vi) of the Proposed Transaction, the HoldCo Merger will not be preceded or followed by the reincorporation in, or transfer or sale to, a recipient corporation (“Recipient”) of any of the businesses or assets of HoldCo, if persons holding, directly or indirectly, more than 20 percent in value of the HoldCo stock also hold, directly or indirectly, more than 20 percent in value of the stock in Recipient. For purposes of this representation, ownership will be determined immediately after the Distribution and by application of the constructive ownership rules of section 318(a) of the Code as modified by section 304(c)(3).
- (i) Prior to adoption of the Plan of Merger, no assets of HoldCo will have been distributed in kind, transferred, or sold to Distributing, except for (i) transactions occurring in the normal course of business; (ii) transactions occurring more than three years prior to adoption of the Plan of Merger; (iii) a dividend paid by HoldCo to Distributing on Date C, which was unrelated to the Proposed Transaction; and (iv) if the consummation of the Distribution is significantly delayed, the possible

payment of a dividend, if any, to Distributing to fund a distribution to Distributing's shareholders.

- (j) HoldCo will report all earned income represented by assets that will be distributed to Distributing such as receivables being reported on a cash basis, unfinished construction contracts, commissions due, etc.
- (k) The fair market value of the assets of HoldCo will exceed its liabilities both at the date of the adoption of the Plan of Merger and immediately before the Merger.
- (l) Other than in connection with the formation of subsidiaries in the ordinary course, no assets of HoldCo have been, or will be, disposed of by either HoldCo or Distributing except for dispositions in the ordinary course of business, dispositions occurring more than three years prior to the adoption of the Plan of Merger, the disposition on Date A of units engaged in Business B-2 and Business C, and transfers occurring as part of the Proposed Transaction.
- (m) There is no intercorporate debt existing between Distributing and HoldCo (other than indebtedness created in the ordinary course of business and certain intercorporate debt owed by Distributing to HoldCo not created in connection with the HoldCo Merger) and none has been cancelled, forgiven, or discounted, except for transactions that occurred more than three years prior to the date of the adoption of the Plan of Merger.
- (n) Distributing is not an organization that is exempt from federal income tax under Section 501 or any other provision of the Code.
- (o) The Merger is being effected pursuant to the laws of State X and State Y and will qualify as a statutory merger under applicable state law. Pursuant to the Plan of Merger, by operation of law, the following will occur simultaneously: (i) all of the assets and liabilities of HoldCo (except to the extent satisfied or discharged in the transaction) will become assets and liabilities of Distributing, and (ii) HoldCo will cease its separate legal existence.
- (p) Distributing has no plan or intention to sell or otherwise dispose of any of the assets of HoldCo acquired in the Merger, except for dispositions made in the ordinary course of business, and as described above, the distribution of Business B-1 and the Cash Distribution.
- (q) The liabilities of HoldCo assumed (within the meaning of section 357(d)) by Distributing and the liabilities to which the transferred assets of HoldCo are subject were incurred by HoldCo in the ordinary course of the Distributing group's business.

- (r) Following the HoldCo Merger, Distributing will continue the historic business of HoldCo or use a significant portion of HoldCo's historic business assets in a business, either directly or through one or more members of Distributing's qualified group (within the meaning of Treas. Reg. § 1.368-1(d)(4)(ii)).
- (s) Distributing and HoldCo will pay their respective expenses, if any, incurred in connection with the transaction.
- (t) No two parties to the HoldCo Merger are investment companies as defined in section 368(a)(2)(F)(iii) and (iv).
- (u) HoldCo is not under the jurisdiction of a court in a Title 11, or similar, case within the meaning of section 368(a)(3)(A).
- (v) The fair market value of the assets of HoldCo transferred to Distributing will equal or exceed the sum of the liabilities assumed (within the meaning of section 357(d)) by Distributing, plus the amount of the liabilities, if any, to which the transferred assets are subject.
- (w) No intercorporate indebtedness exists, or will exist, between Distributing and HoldCo that was issued, acquired, or will be settled at a discount.
- (x) At least 40 percent of the proprietary interest in HoldCo will be preserved (within the meaning of Treas. Reg. § 1.368-1(e)) by reason of an exchange of HoldCo stock held by Distributing for a direct interest in the HoldCo enterprise.
- (y) No Distributing stock will be issued, so Distributing has no plan or intention to reacquire any of its stock issued in the merger of HoldCo into Distributing.
- (z) The fair market value of the assets of Distributing will exceed the amount of its liabilities immediately after the exchange.
- (aa) All other transactions undertaken contemporaneously with, in anticipation of, in conjunction with, or in any way related to, the proposed HoldCo Merger have been fully disclosed.

The Distribution:

The following representations are made with respect to the Distribution:

- (a) Other than the Controlled Securities to be held by Distributing prior to their distribution to Distributing's creditors in the Debt Exchange, the indebtedness, if any, owed by Controlled to Distributing after the Distribution of the Controlled stock will not constitute stock or securities.

- (b) The total fair market value of the assets transferred to Controlled by Distributing in the Contribution will exceed the sum of (i) the amount of liabilities (if any) assumed (within the meaning of section 357(d)) by Controlled in connection with the exchange, (ii) the amount of any liabilities owed to Controlled by Distributing that are discharged or extinguished in connection with the exchange, and (iii) the amount of cash and the fair market value of any other property (other than stock and securities permitted to be received under section 361(a) without the recognition of gain) received by Distributing in connection with the exchange. The fair market value of the assets of Controlled will exceed the amount of its liabilities immediately after the exchange.
- (c) The total fair market value of the assets transferred to Controlled by Distributing in the Contribution will equal or exceed the aggregate adjusted basis of the transferred assets.
- (d) The total adjusted bases of the assets transferred to Controlled by Distributing in the Contribution will equal or exceed the sum of: (i) the total liabilities (if any) assumed (within the meaning of section 357(d)) by Controlled; and (ii) the total of any money and the fair market value of any other property (within the meaning of section 361(b)) received by Distributing and transferred to its creditors in connection with the reorganization.
- (e) With the possible exception of the issuance of Controlled shares pursuant to adjustments to Distributing's existing stock options, restricted stock, or deferred share arrangements, no part of the Controlled shares to be distributed in the Distribution, or cash to be distributed in the Cash Distribution, by Distributing to its shareholders is being received by any of Distributing's shareholders as a creditor, employee, or in any capacity other than that of a shareholder of Distributing.
- (f) No part of the Controlled Securities to be distributed by Distributing will be received by a security holder as an employee or in any capacity other than that of a security holder of Distributing.
- (g) The liabilities assumed (if any) (as determined under section 357(d)) by Controlled in the Contribution will have been incurred in the ordinary course of business and will be associated with the assets transferred.
- (h) In applying section 355(b)(2)(A) regarding the active conduct of a trade or business, Distributing and Controlled will treat all members of their respective separate affiliated groups as defined in section 355(b)(3)(B) (hereinafter, "SAGs") as one corporation.

- (i) D-Sub1 will be a member of Distributing's SAG. C-Sub3 will be a member of Controlled's SAG.
- (j) The five years of financial information submitted on behalf of D-Sub1 is representative of D-Sub1's present operations, and with regard to such operations, there have been no substantial operational changes since the date of the last financial statements submitted.
- (k) The five years of financial information submitted on behalf of C-Sub3 is representative of C-Sub3's present operations, and with regard to such operations, there have been no substantial operational changes since the date of the last financial statements submitted.
- (l) The Distribution of the stock and securities of Controlled is carried out for the following corporate business purposes: (i) to allow the management of the Business A and Business B-1 segments to focus on each separate business; (ii) to facilitate the acquisition by Controlled of corporations engaged in Business B-1 and by Distributing of corporations engaged in Business A; (iii) to reduce the conflicting interests in Business A and Business B-1; and (iv) to provide compensation to the management and executive ranks of employees that relates solely to the management and executives in each separate business segment. The Distribution of the stock and securities of Controlled is motivated, in whole or substantial part, by one or more of these corporate business purposes.
- (m) Following the Distribution, D-Sub1 and C-Sub3 will each continue the active conduct of its business, independently and with its separate employees.
- (n) The Proposed Transaction is not being used principally as a device for the distribution of the earnings and profits of Distributing or Controlled, or both.
- (o) Other than the retirement of the Senior Debt, the Notes, and the Junior Debt as described above as part of the Proposed Transaction, Distributing neither accumulated its receivables nor made extraordinary payment of its payables in anticipation of the Distribution.
- (p) For purposes of section 355(d), immediately after the Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Distributing stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Distributing stock, that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the 5-year period (determined after applying section 355(d)(6)) ending on the date of the Distribution.

- (q) For purposes of section 355(d), immediately after the Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Controlled stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Controlled stock, that was either (i) acquired by purchase (as defined in section 355(d)(5) and (8)) during the 5-year period (determined after applying section 355(d)(6)) ending on the date of the Distribution, or (ii) attributable to distributions on Distributing stock that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the 5-year period (determined after applying section 355(d)(6)) ending on the date of the Distribution.
- (r) The Distribution is not part of a plan or series of related transactions (within the meaning of Treas. Reg. section 1.355-7) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50 percent or greater interest (within the meaning of section 355(d)(4)) in Distributing or Controlled (including any predecessor or successor of any such corporation).
- (s) Except for the Controlled Securities which will be transferred in the Debt Exchange, no intercorporate debt will exist between Distributing and Controlled at the time of the Distribution, and no intercorporate debt will exist between Distributing and Controlled subsequent to the Distribution (except as may arise in the ordinary course of business or with respect to payments pursuant to any continuing transactions between Distributing and Controlled or the tax separation agreement).
- (t) The Controlled Securities will constitute securities for purposes of sections 355(a) and 361(a).
- (u) Payments made in connection with all continuing transactions, if any, between Distributing and Controlled will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length. In addition, certain administrative and similar services will be performed by Distributing for Controlled during a transitional period at cost-based pricing. Although no final decisions have yet been made, it is anticipated that there will be some overlap of membership on Distributing's and Controlled's Board of Directors, and that an individual who will be Controlled's Chief Executive Officer will provide management advice to Distributing as a consultant.
- (v) No two parties to the Distribution are investment companies as defined in section 368(a)(2)(F)(iii) and (iv).
- (w) Immediately before the Distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see Treas. Reg. §§ 1.1502-13 and 1.1502-14 in effect

before the publication of T.D. 8597, 1995-2 C.B. 147, and as currently in effect; Treas. Reg. § 1.1502-13 as published by T.D. 8597). Furthermore, Distributing's excess loss account, if any, with respect to Controlled will be taken into account as required by the applicable excess loss account regulations (see Treas. Reg. § 1.1502-19).

- (x) Distributing and Controlled, and their respective shareholders, will each pay their own expenses, if any, incurred in connection with the Distribution.
- (y) The payment of cash in lieu of fractional shares, if any, of Controlled stock will be solely for the purpose of avoiding the expense and inconvenience of issuing and maintaining fractional shares and will not represent separately bargained for consideration. The total cash consideration that will be paid in connection with the Distribution in lieu of fractional shares of Controlled stock is not intended to exceed one percent of the total consideration that will be distributed to holders of Distributing stock in the Distribution. Any fractional share interests will be aggregated, and it is intended that no Distributing shareholder will receive cash in lieu of fractional shares in an amount equal to or greater than the value of one full share of Controlled stock.
- (z) Immediately after the Distribution (as defined in section 355(g)(4)), neither Distributing nor Controlled will be a disqualified investment corporation (within the meaning of section 355(g)(2)).
- (aa) The sum of: (a) the aggregate amount of Distributing Senior Debt, Junior Debt, and Notes retired with cash received from Controlled; and (b) the aggregate amount of Distributing Notes exchanged for the Controlled Securities in the Debt Exchange, will not exceed the weighted quarterly average of the combined Distributing and HoldCo debt owed to unrelated third parties for the 12-month period ending upon the close of business on Date D, the last full business day before the date on which Distributing's Board of Directors authorized Distributing to pursue actively the distribution of Business B-1.

RULINGS

Based solely on the information submitted and the representations set forth above, we rule as follows with respect to the HoldCo Merger:

- (1) No gain or loss will be recognized by Distributing in the HoldCo Merger.
- (2) No gain or loss will be recognized by HoldCo in the HoldCo Merger.

- (3) The basis of each asset received by Distributing in the HoldCo Merger will equal the basis of that asset in the hands of HoldCo immediately before the HoldCo Merger.
- (4) The holding period of each asset received by Distributing in the HoldCo Merger will include the period during which that asset was held by HoldCo.
- (5) Distributing will succeed to and take into account those attributes of HoldCo described in section 381(c), subject to the conditions and limitations specified in sections 381, 382, 383, and 384 of the Code and the regulations thereunder. Section 381(a) and Treas. Reg. § 1.381(a)-1.

Based solely on the information submitted and the representations set forth above, we rule as follows with respect to the Contribution, the Distribution, the Cash Distribution, and the Debt Exchange:

- (6) The Contribution, together with the Distribution, will qualify as a reorganization within the meaning of section 368(a)(1)(D). Distributing and Controlled will each be "a party to the reorganization" within the meaning of section 368(b).
- (7) To the extent that the cash received by Distributing in the Contribution does not exceed the aggregate adjusted basis of the property transferred to Controlled in the Contribution (reduced by any liabilities assumed by Controlled), no gain or loss will be recognized by Distributing in connection with the Contribution. Sections 357(a), and 361(a) and (b).
- (8) No gain or loss will be recognized by Controlled upon the Contribution in exchange for Controlled stock. Section 1032(a).
- (9) The basis of each asset received by Controlled in the Contribution will equal the basis of that asset in the hands of Distributing immediately before the Contribution. Section 362(b).
- (10) The holding period of each asset received by Controlled in the Contribution will include the period during which Distributing held that asset. Section 1223(2).
- (11) No gain or loss will be recognized by Distributing in connection with the Distribution. Section 361(c).
- (12) No gain or loss will be recognized by (and no amount will be included in the income of) the Distributing shareholders on their receipt solely of Controlled stock in the Distribution. Section 355(a).

- (13) The Cash Distribution will be treated as a distribution to the Distributing shareholders to which section 301 applies. Section 356(b) and Treas. Reg. § 1.356-2(a).
- (14) A Distributing shareholder who receives cash in lieu of a fractional share (if any) of Controlled stock will recognize gain or loss measured by the difference between the basis of the fractional share received, as determined below in ruling (15), and the amount of cash received. Section 1001. Any gain or loss will be treated as capital gain or loss, provided the fractional share of stock is held as a capital asset on the date of the Distribution. Sections 1221 and 1222.
- (15) Each Distributing shareholder's basis in a share of Distributing stock (as adjusted under Treas. Reg. § 1.358-1) shall be allocated between the share of Distributing stock with respect to which the Distribution is made and the share or shares of Controlled stock (or allocable portions thereof) received with respect to the share of Distributing stock in proportion to their fair market values. If one share of Controlled stock is received in respect of more than one share of Distributing stock, the basis of each share of Distributing stock must be allocated to the shares of Controlled stock received in a manner that reflects that, to the extent possible, a share of Controlled stock is received in respect of shares of Distributing stock acquired on the same date and at the same price. If a Distributing shareholder that purchased or acquired shares of Distributing stock on different dates or at different prices is not able to identify which particular share of Controlled stock (or portion thereof) is received with respect to a particular share of Distributing stock, the shareholder may designate which particular share of Controlled stock (or portion thereof) is received with respect to a particular share of Distributing stock, provided the designation is consistent with the terms of the Distribution.
- (16) The holding period of the Controlled stock received by a Distributing shareholder (including any fractional share interest to which the shareholder may be entitled) in the Distribution will include the holding period of the Distributing stock with respect to which the Distribution is made, provided that the Distributing stock is held as a capital asset in the hands of the Distributing shareholder on the date of Distribution. Section 1223(1).
- (17) Earnings and profits of Distributing (if any) will be allocated between Distributing and Controlled in accordance with section 312(h) and Treas. Reg. §§ 1.312-10(a) and 1.1502-33(e)(3) after taking into account the decrease resulting from the Cash Distribution.
- (18) Provided that the Controlled Securities received in the Contribution are transferred by Distributing on the date of the Distribution (or shortly thereafter in connection with the Debt Exchange), (i) any income, gain, deduction or loss

recognized by Distributing on the deemed satisfaction of the Controlled Securities described in Treas. Reg. § 1.1502-13(g) immediately prior to the Distribution (the deemed satisfaction) will be redetermined to be excluded from Distributing's gross income (Treas. Reg. § 1.1502-13(c)(1) and (c)(6)), except to the extent of any such income, gain, or loss equal to an offsetting amount of income, gain, deduction or loss taken into account by Controlled from the deemed satisfaction (attributable to any difference between the adjusted issue price and fair market value of the Controlled Securities at the time of the deemed satisfaction) and (ii) Distributing's basis in its Controlled stock will not be reduced as a result of the deemed satisfaction, except to the extent Controlled takes into account any deduction from the deemed satisfaction (e.g., repurchase premium attributable to any difference between the adjusted issue price and fair market value of the Controlled Securities at the time of the deemed satisfaction).

- (19) No gain or loss will be recognized by Distributing on the distribution of the Controlled Securities in the Debt Exchange. Section 361(c)(3). (To the extent permitted or required under general tax principles, Distributing will recognize any (i) deductions attributable to the fact that the Notes may be redeemed at a premium, (ii) income attributable to the fact that the Notes may be redeemed at a discount, and (iii) deductions related to costs associated with the redemption of the Notes.)

CAVEATS

We express no opinion about the tax treatment of the Proposed Transaction under other provisions of the Code or regulations, or the tax treatment of any conditions existing at the time of, or effects resulting from, the Proposed Transaction that are not specifically covered by the above rulings. In particular, we express no opinion regarding:

- (i) Whether the Spin-Off satisfies the business purpose requirement of Treas. Reg. § 1.355-2(b);
- (ii) Whether the Spin-Off is being used principally as a device for the distribution of the earnings and profits of Distributing or Controlled (see section 355(a)(1)(B) and Treas. Reg. § 1.355-2(d));
- (iii) Whether the Spin-Off is part of a plan (or series of related transactions) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50 percent or greater interest in Distributing or Controlled (see section 355(e) and Treas. Reg. § 1.355-7);
- (iv) The federal income tax consequences of the settlement of intercompany accounts between Distributing Group members, and the distribution to, and

- assumption by, HoldCo of the intercompany accounts as described in Step (ii) of the Proposed Transaction;
- (v) The federal income tax consequences of the cancellation of the intercompany notes between Distributing and HoldCo as described in Step (iii) of the Proposed Transaction
 - (vi) Whether the Controlled Securities described above in Step (vi) will qualify as securities under section 361(a);
 - (vii) The federal income tax consequences of any payments made in connection with the Transition Agreements;
 - (viii) The federal income tax consequences of the Modifications of the Equity-Based Interests; and
 - (ix) The federal income tax consequences of the possible payment of a dividend to Distributing to fund a distribution to Distributing's shareholders as described in representation (i) with respect to the HoldCo Merger.

PROCEDURAL STATEMENTS

This letter is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of this letter ruling.

In accordance with the power of attorney on file in this office, a copy of this letter will be sent to the representatives named therein.

Sincerely,

Frances Kelly
Assistant to the Branch Chief, Branch 2
Office of Associate Chief Counsel
(Corporate)